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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,299	10/06/2003	Shunpei Yamazaki	740756-2662	3512
22204	7590	10/03/2005	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			MUNSON, GENE M	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/678,299	Applicant(s) S. YAMAZAKI ET AL	
	Examiner G. MUNSON	Art Unit 2811	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/578,895.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/20/04, 10/01/04, 11/04/04, 12/13/04, 3/08/05</u> | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2811

A reference to parent application SN 09/578,895 needs to be inserted on page 1 of the specification.

Claims 3, 6, 9, 11, 15, 20-22, 27, 28, 33 and 34 are rejected under 35 U.S.C. 112, first paragraph. In claims 11 and 15, "μm" appears misprinted. See specification, page 10. In claims 3, 6, 9, 20, 27 and 33, the "source" or "impurity" region for a "second" transistor does not agree with the current control transistor in Figure 1.

Claims 6, 9 and 16 are rejected under 35 U.S.C. 112, second paragraph. In claims 6 and 9, the "switching" and "current control" elements have no clear antecedents. Compare with claim 3. See claims 7 and 10. In claim 16, "12" appears misprinted.

The claims are further considered insofar as a possible scope is understandable.

The "portable telephone" in the preamble of the claims is taken as a possible intended use rather than as a limitation of the claims. MPEP 2111.02.

Claims 2, 4, 5, 7, 8, 10-19, 23-26 and 29-32 are rejected as double patenting of the non-statutory type over allowed claims of parent application SN 09/578,895. Present claims read on the allowed claims and would be double patenting. See MPEP 804. This is a provisional double patenting rejection because the conflicting claims have not in fact been patented.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground

Art Unit: 2811

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 2, 4, 5 and 7 are rejected under 35 U.S.C. 102 as unpatentable as shown by Tang et al '365. The "channel" regions read on inherent subportions of a channel in "first" TFT1 of Tang et al (Figure 2).

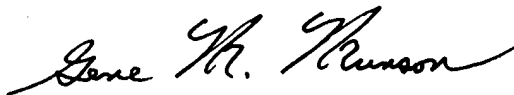
Claims 2, 4, 5 and 7 are rejected under 35 U.S.C. 102 as unpatentable as shown by Hosokawa Japanese document 10-189252. The "channel" regions read on inherent subportions of a channel in "first" transistor 21 of Hosokawa (Figures 2, 3).

Tang et al '365 and Hosokawa are of record in SN 09/578,895. The Inoue patents are cited of interest in showing thin film transistors which could have been used in a "portable telephone."

No claim is allowed.

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9/27/05



GENE M. MUNSON
EXAMINER
GROUP ART UNIT 2811